

Message Text

CONFIDENTIAL

PAGE 01 JAKART 10163 01 OF 02 031153Z

43

ACTION EA-09

INFO OCT-01 AF-08 ARA-06 EUR-12 NEA-10 ISO-00 FEA-01 EAE-00

EB-07 COME-00 TRSE-00 PM-04 NSC-05 SP-02 SS-15 SSO-00

NSCE-00 CIAE-00 INR-07 NSAE-00 INRE-00 L-03 INT-05

CEA-01 OMB-01 CIEP-01 /098 W
----- 114104

O R 031045Z AUG 76

FM AMEMBASSY JAKARTA

TO SECSTATE WASHDC IMMEDIATE 5986

INFO AMEMBASSY ABU DHABI

AMEMBASSY CARACAS

AMEMBASSY DOHA

AMEMBASSY JIDDA

AMEMBASSY KUALA LUMPUR

AMEMBASSY KUWAIT

AMEMBASSY LAGOS

AMEMBASSY LIBREVILLE

AMEMBASSY LONDON

AMEMBASSY MANILA

AMEMBASSY QUITO

AMEMBASSY SINGAPORE

AMEMBASSY TEHRAN

AMEMBASSY TOKYO

AMEMBASSY TRIPOLI

AMEMBASSY PARIS

USINT BAGHDAD

AMCONSUL HONG KONG

AMCONSUL MEDAN

AMCONSUL SURABAYA

C O N F I D E N T I A L SECTION 1 OF 2 JAKARTA 10163

EO 11652: GDS

TAGS: ENRG ID

SUBJECT: GOI-OIL COMPANY NEGOTIATIONS

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 JAKART 10163 01 OF 02 031153Z

REF: JAKARTA 10032 (NOTAL)

PROPRIETARY INFORMATION INVOLVED-- PLEASE PROTECT

1. SUMMARY: LONG AND ARDUOUS NEGOTIATION WITH PRODUCTION-SHARING OIL COMPANIES ARE APPROACHING CONCLUSION. GOI ANNOUNCED AGREEMENT BY THREE COMPANIES--UNION, ARCO, IIAPCO--TO PAY ON BASIS NEW TERMS; TWO OTHERS, TOTAL AND JAPEX, HAVE INDICATED AGREEMENT IN PRINCIPLE BUT REQUIRE MORE TIME. CHIEF HOLDOUT IS PETROMER TREND WHICH HAS INDICATED NON-ACCEPTANCE OF NEW TERMS; GOI HOPES TO AVOID CONFRONTATION WITH TREND BUT IS PREPARED TAKE STRONG LINE IF ABSOLUTELY NECESSARY. GOI AWARE OF LIKELY ADDED ADVERSE IMPACT ON INVESTMENT CLIMATE AND RECOGNIZES THAT BRIDGE BUILDING WITH COMPANIES NECESSARY TO RESTORE LOST CONFIDENCE. END SUMMARY.

2. I MET WITH MINES MINISTER SADLI AFTERNOON AUGUST 2 AT HIS REQUEST FOR DISCUSSION ON OUTCOME OF PRODUCTION-SHARING CONTRACT NEGOTIATIONS. SADLI WAS JOINED BY PERTAMINA PRESIDENT HARYONO AND PERTAMINA BOARD OF COMMISSIONERS SECRETARY GOZALI. GROUP HAD JUST COME FROM SPECIAL CLOSED-DOOR BRIEFING OF KEY NEWSPAPER AND MAGAZINE EDITORS ON OIL TALKS.

3. SADLI OPENED CONVERSATION BY STATING HE WANTED TO REPORT ON RESULTS OF NEGOTIATIONS. HE NOTED THAT UNION HAD SIGNED AGREEMENT JULY 30 AND ARCO HAD AGREED ON JULY 31. IIAPCO HAD NOT SIGNED ANYTHING BUT THEY HAD AGREED ORALLY TO MAKE ADDITIONAL PAYMENTS PER GOVERNMENT'S REQUEST. JAPEX HAD AGREED IN PRINCIPLE BUT HAD NOT YET SIGNED PENDING APPROVAL OF JAPEX'S PARTNERS. SADLI SAID GOVERNMENT HAD AGREED TO GIVE JAPEX ADDITIONAL TIME TO MAKE FORMAL DECISION IN RECOGNITION CUMBERSOME JAPANESE DECISION-MAKING PROCEDURES. TOTAL, HE INDICATED, HAD NOT YET MADE FINAL AGREEMENT BUT HAD EXPRESSED WILLINGNESS ACCEPT NEW TERMS. TOTAL HAD DIFFICULT POSITION BECAUSE THEY WERE BEING ASKED NOT ONLY TO ACCEPT NEW DEPRICATION SCHEDULE AND TIGHTER PROFIT SPLIT BUT ALSO PAYMENT OF DOMESTIC CONSUMPTION, PRO RATA CRUDE WHICH AMOUNTS TO ABOUT 20 CONFIDENTIAL

CONFIDENTIAL

PAGE 03 JAKART 10163 01 OF 02 031153Z

PERCENT OF PRODUCTION. SMALLER PRODUCING COMPANIES WOULD RECEIVE LETTER FROM GOI IN NEXT COUPLE DAYS ASKING THEM TO ACCEDE TO NEW TERMS. SADLI ANTICIPATED NO SPECIAL PROBLEMS IN GETTING ACCEPTANCE FROM THIS GROUP, BULK OF WHICH INITIALLY BENEFIT FROM NEW GUIDELINES IN TERMS OF BEING ABLE RECOVER GREATER SHARE OF "OCST OIL." SADLI SAID COMPANIES WHO HAVE SIGNED HAVE CREATED "GOOD WILL" WHILE THOSE WHO OP-

POSED GOI'S TERMS OF REFERENCE WERE IN "OCNFLICT SITUATION."

4. LATTER REMARK REFERRED TO PETROMER TREND WHICH HAD INDICATED TO GOI IN LETTER JULY 31 THAT COMPANY COULD NOT ACCEPT NEW TERMS AND THAT TREND WOULD CONTINUE TO OPERATE UNDER FORMER CONTRACT CONDITIONS. SADLI INDICATED FRANKLY THAT GOVERNMENT CONCERNED BY TREND'S LACK OF RESPONSE AND APPARENT CONFRONTATIONAL ATTITUDE. HE EXPLAINED THAT GOI HOPED IT WOULD NOT HAVE TO FIND ITSELF IN DEADLOCK BECAUSE THAT WOULD LEAVE GOVERNMENT WITH ONLY ONE COURSE OF ACTION WHICH WOULD BE TAKEOVER OF TREND'S OPERATION BY PERTAMINA. IT WAS OBVIOUS THAT SADLI AND OTHERS CONSIDERED THIS DISTASTEFUL ACTION AND CLEARLY HOPED SITUATION COULD BE RECTIFIED. WE EXPLAINED THAT ONE OF TREND'S CHIEF CONCERNS WAS CLASSIFICATION AS GROUP TWO CONTRACTOR WHICH SUBJECTED THEM TO FOURTEEN YEAR DEPRECIATION SCHEDULE. COMPANY FELT THIS DISTINCTION WAS UNFAIR SINCE FIVE OF THEIR SIX PRODUCING FIELDS HAD EXPECTED LIVES SHORTER THAN SEVEN YEARS WHILE ONLY ONE WAS LONGER. OTHER WORRY WAS THAT COMPANY COULD WIND UP IN NEGATIVE CASH FLOW SITUATION UNDER PROPOSED TERMS. SADLI EXPLAINED THAT GOVERNMENT HAD APPLIED SIMPLE FORMULA IN DETERMINING CLASSIFICATION FOR ALL COMPANIES. FOR EACH COMPANY, TOTAL RESERVES WERE DIVIDED BY 1975 PRODUCTION; COMPANIES WERE PLACED INTO CATEGORY ONE IF PRODUCT SMALLER THAN SEVEN YEARS AND GROUP TWO IF LARGER. SADLI SAID ON THIS BASIS TREND CLEARLY FELL INTO GROUP TWO. HE SAID GOI VERY RELUCTANT CHANGE THIS AT LEAST FOR 1976 AND RISK BEING BRANDED INCONSISTENT BY OTHER GROUP TWO COMPANIES (TOTAL AND JAPEX).
CONFIDENTIAL

CONFIDENTIAL

PAGE 04 JAKART 10163 01 OF 02 031153Z

SADLI AGAIN EMPHASIZED HE HOPED TREND WOULD UNDERSTAND PRESENT SITUATION AND THAT IT COULD BACK OFF FROM ITS ATTITUDE WHICH WAS VIEWED AS "CHALLENGE" TO GOI. WE EXPLAINED TREND'S COMPLICATED SHAREHOLDER ARRANGEMENT AND SUGGESTED THAT INDONESIANS MIGHT WISH TO CONTACT TREND'S SENIOR PARTNERS, LARRY BARKER OR DON TODD, BOTH OF WHOM HAVE LONG AND SYMPATHETIC EXPERIENCE WITH INDONESIA FOR DISCUSSION ON WAYS IMPASSE MIGHT BE SLOVED. WE PASSED ON SUBSTANCE OF OUR CONVERSATION TO TREND'S RESIDENT MANAGER WHO SAID HE WOULD ATTEMPT HAVE TODD CALL SADLI AND EXPLAIN COMPANY'S POSITION. (FYI: WE UNDERSTAND TREND PRESIDENT JIM WILSON AND TODD ARRIVING IN JAKARTA END OF WEEK. END FYI.)

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 JAKART 10163 02 OF 02 031212Z

43

ACTION EA-09

INFO OCT-01 AF-08 ARA-06 EUR-12 NEA-10 ISO-00 FEA-01 EAE-00

EB-07 COME-00 TRSE-00 PM-04 NSC-05 SP-02 SS-15 SSO-00

NSCE-00 CIAE-00 INR-07 NSAE-00 INRE-00 L-03 INT-05

CEA-01 OMB-01 CIEP-01 /098 W
----- 114335

O R 031045Z AUG 76

FM AMEMBASSY JAKARTA

TO SECSTATE WASHDC IMMEDIATE 5987

INFO AMEMBASSY ABU DHABI

AMEMBASSY CARACAS

AMEMBASSY DOHA

AMEMBASSY JIDDA

AMEMBASSY KUALA LUMPUR

AMEMBASSY KUWAIT

AMEMBASSY LAGOS

AMEMBASSY LIBREVILLE

AMEMBASSY LONDON

AMEMBASSY MANILA

AMEMBASSY QUITO

AMEMBASSY SINGAPORE

AMEMBASSY TEHRAN

AMEMBASSY TOKYO

AMEMBASSY TRIPOLI

AMEMBASSY PARIS

USINT BAGHDAD

AMCONSUL HONG KONG

AMCONSUL MEDAN

AMCONSUL SURABAYA

C O N F I D E N T I A L SECTION 2 OF 2 JAKARTA 10163

5. IT IS DIFFICULT TO DESCRIBE WHAT IT IS COMPANIES
ACTUALLY SIGNED. COMPANIES ARE RELUCTANT TO CALL
SIGNED AGREEMENTS AMENDMENTS OR CONTRACT MODIFICATIONS
BECAUSE OF POSSIBLE REPERCUSSIONS WITH IRS. SADLI
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 JAKART 10163 02 OF 02 031212Z

AND HARYONO INDICATED THAT ONE OF GOI'S CHIEF CONCERNS WAS NOT TO DO ANYTHING WHICH WOULD CAUSE PROBLEMS WITH IRS RULING, PARTICULARLY GRANDFATHER CLAUSE. COMPANIES FEEL IRS RULING GRANTS THEM PROTECTION THROUGH 1976; SOME COMPANIES FEAR THAT NEW GOI TERMS, WHICH ARE RETROACTIVE TO JANUARY 1, 1976, MAY JEOPARDIZE THIS PROTECTION. HARYONO EXPLAINED THAT UNION AND ARCO HAD SIGNED STATEMENT WHEREBY THEY SIMPLY AGREED TO PAY GOI ADDITIONAL SUM OF MONEY BUT DID NOT SPELL OUT TERMS. ADDITIONAL SIDE LETTER WAS USED BY COMPANY TO ACKNOWLEDGE ACCEPTANCE OF 85/15 PROFIT SPLIT AND DEPRECIATION SCHEDULE. SADLI MENTIONED THAT UNION ACCEPTANCE LETTER WOULD BE USED AS MODEL. IIAPCO HAD NOT YET SIGNED AHB PEICE OF PAPER FOR FEAR THIS WOULD HAVE ADVERSE EFFECT WITH IRS. ALTHOUGH IIAPCO WILL PAY, THEY ARE REFERRING TO PAYMENTS AS "LOAN." THERE WAS APPARENT DIFFERENCE BETWEEN UNION'S LAWYERS WHO BELIEVED CHANGES WERE ACCEPTABLE TO IRS AND IIAPCO WHOSE LAWYERS FELT OTHERWISE. SADLI SAID DISCUSSIONS WITH COMPANIES WOULD BE RESUMED IN OCTOBER TO MELD THESE CHANGES INTO NEW LANGUAGE OF REVISED CONTRACT WHICH HOPEFULLY WOULD BE ACCEPTABLE TO IRS. GOZALI STATED THAT GOI LEGAL ADVISERS, ROGERS AND WELLS, REMAINED OPTIMISTIC ABOUT CHANCES OF POSITIVE IRS RULING. HARYONO EXPRESSED CONCERN, HOWEVER, ABOUT JULY 14 IRS STATEMENT ON NEW TAX GUIDELINES WHICH, IF FOLLOWED, LITERALLY, WOULD REQUIRE PAYMENT OF ROYALTY TO ACCOMPANY PAYMENT OF TAX. BOTH SADLI AND HARYONO FELT THIS WOULD CAUSE INDONESIA REAL PROBLEMS IF STRICTLY APPLIED.

6. I ASKED THE MINISTER IF HE HAD CALCULATED THE EFFECTS THESE NEW GUIDELINES MIGHT HAVE ON FUTURE INVESTMENT IN EXPLORATION ACTIVITIES. HE INDICATED THAT THIS WAS REAL FACTOR BUT THAT IT WAS NOT EASY TO PREDICT CONSEQUENCES. SADLI FELT THAT FOR NEXT TWO OR THREE YEARS, THERE MIGHT NOT BE SERIOUS DECLINE IN PRODUCTION BUT HE AGREED THAT UNCERTAINTY WOULD FOLLOW IN MEDIUM TERM OF SPENDING DROPPED OFF BECAUSE OF TIGHTER TERMS. HE FELT THAT COMPANIES COULD STILL OPERATE PROFITABLY IN INDONESIA AND POINTED OUT THAT

CONFIDENTIAL

PAGE 03 JAKART 10163 02 OF 02 031212Z

EVEN WITH NEW TERMS COMPANIES STILL COULD HAVE ABOUT 20 PERCENT RETURN ON CAPITAL INVESTMENTS. HE ARGUED

THAT UNDER NEW GUIDELINES, IT WAS TO COMPANY'S ADVANTAGE TO DISCOVER, SAY, 100 MILLION BARREL FIELD SINCE COMPANY COULD WRITE OFF NON-CAPITAL, PREPRODUCTION COSTS WITHOUT LIMIT IN YEAR OF EXPENDITURE UNLIKE OLD SYSTEM WHERE 40 PERCENT LIMIT WAS IMPOSED.

7. I TOLD MINISTER THAT, FRANKLY SPEAKING, THERE WAS SERIOUS LOSS OF CONFIDENCE ON PART OF COMPANIES ABOUT CREDITABILITY OF GOI AS RESULT OF CURRENT NEGOTIATIONS. I STRESSED THAT COMPANIES HAD SERIOUS DOUBTS ABOUT STABILITY OF CONTRACTS. IT WAS NO LONGER A QUESTION OF WHAT THE NUMBERS SHOWED BUT A QUESTION OF WHETHER THE GOVERNMENT'S WORD COULD BE TRUSTED. IT SEEMED TO ME THAT THE MINISTER AND THE GOI HAD TO ENGAGE IN SOME "BRIDGE BUILDING" WITH COMPANIES TO RE-GAIN THEIR CONFIDENCE. SADLI ACKNOWLEDGED THIS AND AGREED THAT SOMETHING HAD TO BE DONE.

8. SCENARIO AT THIS POINT CALLS FOR PERTAMINA, UNDER HARYONO'S SIGNATURE, TO ISSUE LETTERS TO COMPANIES INFORMING THEM THAT NEW TERMS WILL BECOME EFFECTIVE RETROACTIVE TO JANUARY 1, 1976. SEVERAL WIRE SERVICES HAVE REPORTED THAT THOSE COMPANIES WHICH HAVE NOT SIGNED AGREEMENTS WOULD BE "NATIONALIZED". THIS STEMS FROM COMMENTS BY HARYONO MORNING OF AUGUST 2 FOLLOWING MEETING WITH PRESIDENT SUHARTO FOR BRIEFING ON OUTCOME OF TALKS. HARYONO REPORTEDLY SAID PERTAMINA WOULD "TAKE OVER" OPERATIONS OF RECALCITRANT COMPANIES WHICH WERE ALLEGEDLY PETROMER TREND AND ASAMERA (CANADIAN). CHECK WITH PERTAMINA SECRETARY GOZALI INDICATED HARYONO WAS MISQUOTED OR QUOTED OUT OF CONTEXT. GOZALI EXPLAINED TREND WOULD BE GIVEN "STRONG" LETTER OUTLINING GOVERNMENT'S POSITION. THERE WAS NO THREAT OF NATIONALIZATION, HE STATED. AS PRACTICAL MATTER, PERTAMINA/GOI OWN OPERATIONS ALREADY AND COMPANIES PRODUCE OIL AND GAS ONLY AS SERVICE CONTRACTORS. IF COMPANIES DECIDED TO LAEVE BECAUSE NEW TERMS MADE THEIR OPERATIONS UNECONOMICAL, THEN PERTAMINA WOULD TAKE OVER THEIR ACTIVITIES. SADLI SAID THAT COMPANIES

CONFIDENTIAL

CONFIDENTIAL

PAGE 04 JAKART 10163 02 OF 02 031212Z

WOULD BE COMPENSATED FOR THEIR INVESTMENTS IF THIS SHOULD HAPPEN. ASAMERA REP IS PUZZLED WHY HIS COMPANY WAS SINGLED OUT FOR ATTENTION SINCE ASAMERA HAS ONLY ASKED FOR ADDITIONAL TIME AND HAS NOT INDICATED NON-ACCEPTANCE.

9. ACCORDING TO PRELIMINARY CALCULATIONS, GOI SHOULD REALIZE APPROXIMATELY \$339 MILLION IN IN 1976 IN ADDITIONAL REVENUES AS RESULT CONTRACT REVISIONS WTH SIX MAJOR

PRODUCTION-SHARING CONTRACTORS. THIS BREAKS DOWN BY COMPANY AS FOLLOWS: UNION, \$26 MILLION; ARCO \$62MILLION; IAPCL, \$97 MILLION; X TREND, \$37 MILLION; JAPEX, \$110 MILLION; TOTAL, \$7 MILLION. THESE FIGURES INCLUDE COMPANIES' REDUCTION IN "COST OIL" AND REDUCTION IN EQUITY, PROFIT OIL. AVERAGE PER BARREL DECREASE IN COMPANY TAKE IS \$1.69/BARREL.

NEWSOM

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PETROLEUM INDUSTRY, CONTRACTS, NEGOTIATIONS, PROFIT SHARING
Control Number: n/a
Copy: SINGLE
Draft Date: 03 AUG 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: coburnhl
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976JAKART10163
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760298-0954
From: JAKARTA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760893/aaaaddsn.tel
Line Count: 340
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 76 JAKARTA 10032
Review Action: RELEASED, APPROVED
Review Authority: coburnhl
Review Comment: n/a
Review Content Flags:
Review Date: 20 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <20 APR 2004 by BoyleJA>; APPROVED <09 SEP 2004 by coburnhl>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: GOI-OIL COMPANY NEGOTIATIONS CONFIDENTIAL CONFIDENTIAL
TAGS: ENRG, ID
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006